

OCT 24 1997

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )  
 )  
**JAMES A. KAY, JR.** ) WT DOCKET NO. 94-147  
 )  
 )  
 Licensee of 152 Part 90 Stations in the )  
 Los Angeles, California Area )

To: Honorable Richard L. Sippel  
 Administrative Law Judge

**WIRELESS TELECOMMUNICATIONS BUREAU'S**  
**LIST OF CONTEMPLATED WITNESSES**

1. The Chief, Wireless Telecommunications Bureau, by his attorneys, and pursuant to the Presiding Judge's Order, FCC 97M-170 (released October 14, 1997) and the discussion at the October 9, 1997 prehearing conference, now provides a list of witnesses which the Bureau contemplates may be called as witnesses at the hearing in this proceeding.<sup>1</sup>

2. The Bureau notes that this list is not a definitive and final list of witnesses the Bureau will provide at hearing. That list will be provided on April 3, 1998, when the Bureau exchanges its direct written case exhibits and summary of the testimony of its witnesses. Order, FCC 97M-170, supra. Depending on the course of depositions, and other matters, the Bureau may decide that certain of the witnesses listed below will not be called at the hearing.

<sup>1</sup> Consistent with the Presiding Judge's Order, the required information concerning the expert witness whom the Bureau will call concerning loading records will be exchanged at the end of November, at the time of the November status report.

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 List A B C D E

The Bureau also reserves the right to name additional witnesses if it discovers additional witnesses who have relevant evidence. This list represents the Bureau's best faith effort at naming the witnesses whom, based upon the Bureau's current state of knowledge, would be called as witnesses if the Bureau had to list its witnesses today.

3. Consistent with the statements made above, the Bureau lists the following contemplated witnesses:

4. James A. Kay, Jr.: Kay would be an adverse witness. He will be asked to testify on all of the designated issues. He would be asked to provide evidence concerning his refusal to provide evidence concerning his refusal to provide evidence responsive to Commission inquiries, his invocation of his right against self-incrimination in response to Commission inquiries, the construction and operation of his stations, the loading of Kay's stations, his involvement in and procedures for filing applications with the Commission, whether Kay attempted to abuse the Commission's processes, and whether Kay willfully or maliciously interfered with radio communications. Mr. Kay's address is 15525 Cabrito Road, Van Nuys California 91409.

5. Marc D. Sobel: Sobel would be an adverse witness. He has worked for Kay as a contract technician involved in constructing and operating stations licensed to and managed by Kay. Kay has also asked him on occasion to deal with Kay's customers and to perform other tasks. Sobel would be asked to provide evidence on the following matters: the construction

and operation of Kay's stations, his knowledge of Kay's records, his involvement in and knowledge concerning applications prepared and filed by Kay, and his knowledge concerning whether Kay ever interfered with radio communications. Mr. Sobel's address is 207 West Los Angeles Avenue, Suite 179, Moore Park, California 93021.

6. Barbara Ashaur: Ms. Ashaur would probably be an adverse witness. She is an employee of Kay and his companies who runs the accounting department and perform many other functions for Kay. Ms. Ashaur would be asked to provide evidence concerning her knowledge of Kay's records and statements made by Mr. Kay. Her address is 15525 Cabrito Road, Van Nuys, CA 91409.

7. Ben Nakamiyo, Paul Oei, and Jim Lafontaine:<sup>2</sup> Messrs. Nakamiyo, Oei, and Lafontaine are Commission employees who were involved in inspections of Kay's stations. They will be asked to give evidence concerning the construction and operation of Kay's stations, whether Kay was operating conventional stations in trunked mode, and whether Kay ever interfered with radio communications. Ben Nakamiyo and Paul Oei's business address is FCC, 18000 Studebaker Road, Cerritos, CA. Jim LaFontaine's business address is P.O. Box 61469, Portland, Oregon 98666-1469.

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<sup>2</sup> At the time of the prehearing conference, the Bureau believed that one person from the Commission's Los Angeles field office could provide testimony concerning these matters. After reviewing matters further, in order to provide testimony from witnesses with personal knowledge of the facts, it may be necessary for the Bureau to call all three individuals.

8. Christopher Killian: Mr. Killian, who has been involved in the land mobile business in the Los Angeles area, would be asked to provide evidence concerning his knowledge of (a) Kay interfering with radio communications, (b) Kay operating conventional stations in trunked mode, (c) Kay's loading practices, and (d) applications prepared by and filed by Kay. Mr. Killian's address is Carrier Communications, 42326 North 10th St. West Lancaster, CA.

9. Roy Jensen: Mr. Jensen, a former employee of Kay, would be asked to provide evidence concerning applications signed by Mr. Jensen and prepared and filed by Kay, as well as his knowledge concerning Kay's loading practices and interfering with radio communications. Mr. Jensen's address is 226 South Tower Drive #5, Beverly Hills, CA 90211.

10. Vincent Cordaro: Mr. Cordaro was formerly a Service Manager of Southland Communications, a company owned by Kay. Mr. Cordaro would be asked to provide evidence concerning his knowledge of (a) Kay's loading, (b) Kay's involvement in the preparing and filing of licenses in the name of Cordaro and others, and (c) Kay's involvement in interfering with radio communications. His address as it appears on the FCC database is 15525 Cabrito Road, Van Nuys, CA 91409.

11. Kevin Hessman: Mr. Hessman was formerly an employee of Kay. Mr. Hessman would be asked to give testimony concerning his knowledge of an application he signed in the

name of Hessman Security and prepared and filed by Kay. His address is Bel Air Patrol, 3220 Nebraska Ave. Santa Monica, CA 90404.

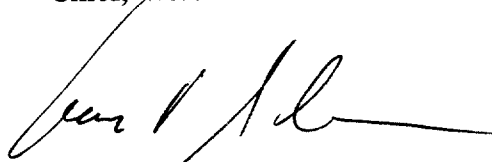
12. Carla Pfeifer: Ms. Pfeifer, a former employee of Kay, would be asked to give testimony concerning her knowledge of applications filed in her name and prepared and filed by Kay. Her address is Unit 103, 18540 Soledad Canyon Rd., Canyon Country, CA 91351.

13. Cornelia Dray: Ms. Dray, the owner of a security firm that had an interest in a community repeater, would be asked to give testimony concerning Kay's involvement in interfering with radio communications, and an application involving that station and Kay. Her address is 8185 Edison Avenue, Chino CA 91710.

14. Frank Barnett: Mr. Barnett was the President of Liberty Paving Co., a Business Radio Licensee which has obtained a ruling in civil litigation that Kay defrauded the company in connection with Kay's submission of an application to cancel Liberty Paving's license. The litigation has been settled. Mr. Barnett would be asked to provide evidence concerning his dealings with Kay and the application that was submitted to the FCC concerning Liberty Paving's license. His address is Liberty Paving Co., Inc., 4030 Grand Avenue, Pomona, California 91766.

15. Gary Van Diest: Mr. Van Diest is secretary and treasurer of Van Diest Brothers, Inc., a land mobile licensee. He would be asked to give testimony regarding Kay's involvement in a license that was transferred to Marc Sobel. His address is 15315 Lakewood Blvd., Paramount, CA 90723.

Respectfully submitted,  
Daniel B. Phythyon  
Chief, Wireless Telecommunications Bureau



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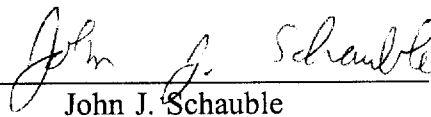
October 24, 1997

## CERTIFICATE OF SERVICE

I, John J. Schauble, an attorney in the Enforcement and Consumer Information Division, Wireless Telecommunications Bureau, certify that I have, on this 24th day of October, 1997, sent by hand delivery, copies of the foregoing "Wireless Telecommunications Bureau's List of Contemplated Witnesses" to:

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John J. Schauble